W.P.(S) 1792/05 (3)

WP 13481/03

IN THE MADHYA PRADESH STATE ADMINISTRATIVE TRUBUNAL
PRINCIPAL BENCH AT JABALPUR

O.A.NO. 532 OF 1998

BETWEEN

1. Manmohan Patel S/o Nandram Patel, aged about 31 years, occupation service at Pre Matric Adhiwasi Balak Chatrawas, ~~Sarangarh~~ District Raigarh (MP).

2. Mehttar Das S/o Sikhdeo Mahanta, aged 34 years, occupation service at Pre Matric Balak Scheduled Tribe Chatrawas Raigarh, r/o Village Qurda, tahsil & Thana Kharsiya.

3. Changrulal Ajay S/o Tularam Ajay aged 37 years, occupation service, at Pre Matric Scheduled Caste Girls Hostel, Raigarh r/o Village Gumerdee, Post Khotri, Tah. Sarangarh Distt Raigarh.

4. Dhanineshwar Ratrey S/o Nankiram Ratrey, aged 33 years, occupation service, Pre Matric Balak Scheduled Caste, Chatrawas Sangh, r/o Village Businbehra, Post Khotri, Tah, Sarangarh.

5. Smt. Belmati Mehar W/o Manohar Mehar, aged 35 years, occupation service, at Pre Matric Balak Adiwasi Chatrawas, Jamaon, r/o Village Jhamgaon Tah & Distt Raigarh.

6. Shanker Singh S/o Duriyodhan Singh, aged 30 years, occupation service, at Kanya Ashram Godhri, r/o Village Rampura, Post Samkeda, distt. Kharkoda distt Raigarh.

7. Nanki Babu Sidar S/o Shri Nanhar Sidar aged 30 years, occupation service, Aadivasi Balak Ashram Machida, r/o Amli Bhona Post Taprada, via Kodatarai, distt Raigarh.

8. Rajendra Kumar Chouhan S/o Laxman Pd, aged 27 years, occupation service, Hr. Sec. School Gharghoda, r/o Village Jevri -dih, Post Bade Bhandar, tahsil & Distt Raigarh.

9. Ganesh Ram Mehar S/o Makardhwaj aged 35 years, occupation service at Aadivasi Balak Ashram Machida (Pussore) r/o Village Chitapali, Post Bojiya (Chhal) tahsil Dharamjaigarh District Raigarh.

10. Shri Adhar Ram Sidar aged 34 years, occupation service at SC/ST Hostel Pussore, r/o Village Bagdega, Post Tiur(Jharadih) tahsil Kharsiya district Raigarh.

11. Mahesh Kumar Sav S/o Shashidhar Sav aged 32 years, occupation service, at Anusuchit Jati Hostel Pussore, r/o Bade Hardi, Post Pussore, Tahsil & Distt Raigarh.

12. Smt. Rahmatunisha W/o Shri Jaffar Hussain aged 38 years, occupation service, at Girls SC Hostel Raigarh, r/o Nawagadi Madhuwan Para, Raigarh (MP).

APPLICANTS

AND

1. State of M.P. through Secretary Adhivasi Vikas, Vallabh Bhawan, BHOPAL.

2. Collector, Addim Jati Kalyan Branch, Raigarh Tahsil and District Raigarh (MP).

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3) Assistant Commissioner Aadhivasi Vikas Trible, Raigarh.

4) Commissioner Aadhivasi Vikas (M.P), Bhopal (M.P).

Details of Application

(63)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (s) No.No.1792 of2005

Single Bench: Hon'ble Shri **Satish K. Agnihotri**,J.

Manmohan Patel & others

Vs.

State of Mdhya Pradesh & others

PRESENT: -

Shri Awadh Tripathi, counsel for the petitioners.
Shri Arvind Dubey, Panel lawyer for the respondents/State.

ORAL ORDER
(11th July, 2006)

1. Learned counsel appearing for the petitioners on instructions submits that the petition in respect of the petitioner No. 2 be dismissed as withdrawn, to which learned counsel for the respondents/State has no objection. Accordingly, the petition of the petitioner No. 2 stands withdrawn.
2. The petitioners were appointed on various posts as per the chart herein below :-

Name of the petitioner	Post	Date of appointment	Date of Regular pay scale
Manmohan	Waterman	26.3.1991	21.7.1994
Changru Lal	Chowkidar	19.7.89	24.7.92
Dhanineshwar Ratre	Cook	10.2.1991	23.7.97
Smt. Belmati Mehar	Cook	19.9.89	10.2.94
Shankar Singh	Class IV Employee	22.7.92	
Nanki Ram	Class IV Employee	22.7.91	19.8.94
Rajendra Kumar Chouhan	Chowkidar		1.7.97

(64)

Ganesh Ram Mehar	Chowkidar	19.1.90	22.4.94
Adhar Ram Sidar	Water Carrier	10.3.89	10.2.94
Mahesh Kumar Sao	Cook	29.4.93	23.7.97
Smt. Rahmatunisha	Cook	21.6.89	11.11.92

and the petitioners were granted regular pay scale also as per the above mentioned chart.

3. The regular pay scales granted to the petitioners were withdrawn vide circular dated 4.10.1997 (Annexure A/4), admittedly, without show cause notice to the petitioners.

4. Learned counsel appearing for the respondents submits that an internal inquiry has been held whereby it was found that the regular pay scale granted earlier was not proper. Be that as it may, regular pay scales were granted to the petitioners, not on the basis of any misrepresentation made by the petitioners, but on the basis of the consideration of their cases by the respondents on various dates running from July, 1992 to 23.7.97. The said order dated 4.10.97 (Annexure A/4) have cancelled grant of regular pay after a long period, without affording an opportunity of hearing, to them. The petitioners were not even given show cause notice to put their cases before the authorities.

5. The Supreme Court in the case of **Bhagwan Shukla Vs. Union of India & others** {(1994) 6 Supreme Court Cases 154}, while considering the reduction of pay of the employee from Rs. 190/- per month to Rs. 181/- per month has held as under:-

> "The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an

65

employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter."

6. In the facts of the present case, the petitioners have been availing regular pay scales from various dates till the impugned order dated 4.10.97 was passed. The impugned order could not have been passed without issuing proper show cause notice or without giving the petitioners a hearing in the matter. The impugned order visits with civil consequences. Since the impugned order was passed without affording the petitioners a hearing, the impugned order is bad and invalid.

7. For the reasons stated-above, the petition is allowed and the impugned order dated 4.10.97 (Annexure A/4) is quashed. The petitioners are entitled to regular pay scales accordingly from the date, the same have been withdrawn by the impugned order. No order as to costs

Bablu

Sd/-
Satish K. Agnihotri
Judge